

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

GREGORY WALKER, #1661270,

§

Plaintiff,

§

v.

§

Case No. 6:19-CV-3-JDK-JDL

BRYAN COLLIER, *et al.*,

§

Defendants.

§

§

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

This action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. Docket No. 2. The Magistrate Judge issued the Report and Recommendation of the Magistrate Judge (Docket No. 121), recommending that Defendant Davis's Motion to Dismiss (Docket No. 110) be granted and that Plaintiff's claims against Defendant Davis be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(5). Plaintiff filed written objections. Docket No. 125.

In the Magistrate Judge's March 11, 2019 Order, the Court informed Plaintiff that he was obligated to properly serve the Defendants before the expiration of 90 days from the date he filed his complaint. Docket No. 11. Plaintiff filed the return of his purported executed service on August 26, 2019. Docket No. 64. Defendant Davis, the sole remaining defendant in this action, filed her motion to dismiss for insufficient service pursuant to Federal Rule of Civil Procedure 12(b)(5), urging dismissal of Plaintiff's lawsuit because his purported service was defective in multiple ways. Docket No. 110.

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* FED. R. CIV. P. 72 and 28 U.S.C. § 636(b)(1) ("A judge of the

court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.”). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Having reviewed Plaintiff’s objections de novo, the Court concludes that the objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, it is **ORDERED** that Plaintiff’s objections are **OVERRULED** and that the Magistrate Judge’s Report (Docket No. 121) is **ADOPTED** as the opinion of this Court. It is further

**ORDERED** that Defendant Davis’s motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5) (Docket No. 110) is **GRANTED**. It is finally

**ORDERED** that Plaintiff’s complaint against Defendant Davis is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 12(b)(5). All motions not previously ruled on are **DENIED AS MOOT**.

So ordered and signed on this  
Aug 3, 2020

  
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JEREMY D. KERNODEE  
UNITED STATES DISTRICT JUDGE